IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

THE CITY OF TULSA, THE TULSA METROPOLITAN UTILITY AUTHORITY, Plaintiffs, vs. TYSON FOODS, INC., COBB-VANTRESS, INC., PETERSON FARMS, INC., SIMMONS FOODS, INC., CARGILL, INC., GEORGE'S, INC., CITY OF DECATUR, ARKANSAS, Defendants.	No. 01 CV 0900B(X) VIDEOTAPED DEPOSITION OF RONALD J. MULLIKIN

THE VIDEOTAPED DEPOSITION OF RONALD J. MULLIKIN, taken before Karen J. Eichmann, Certified Shorthand Reporter and Notary Public of the State of Iowa, commencing at 12:02 p.m., on the 18th day of July, 2002, at 421 West Broadway, Suite 405, Council Bluffs, Iowa.

EXHIBIT 5

Reported by: Karen J. Eichmann, C.S.R.

EXHIBIT 74

Q. Mr. Mullikin, would there -- would there be any reason to put any more phosphorus on a field than whatever the plant was -- that was being grown in the field could use in its uptake?

A. From an agronomic standpoint, there wouldn't. From a growing standpoint, there wouldn't.

Q. And from an environmental standpoint if one was in a watershed that was already sensitive to phosphorus because of years of phosphorus application and so forth, would there be any reason to put any more than the plant could uptake?

MS. BARTLEY: Object to form.

A. The -- the answer to that is there certainly wouldn't be, but the problem goes beyond that. For the grower himself that litter has always been a source of fertilizer, and most of the time it goes on pasture. And phosphate is not one of the elements that pasture ground needs in great numbers to thrive on. It needs nitrogen. And so it was a great source for the growers to be able to put nitrogen on their fields that it needed.

Q. And a side result of that was then too much phosphorus then got put on the fields?

MS. BARTLEY: Object to form.

A. That -- that's the end result.

Q. Is there any reason the company couldn't do something to correct that problem?

MS. BARTLEY: Object to form.

A. It is all about economics. The grower has their own fertilizer source being the litter; and because that is a source that is theirs, it doesn't cost them anything. To replace it with commercial fertilizer, it is a matter of economics.

Q. The commercial fertilizer could be mixed in such a way that it got the right amounts of the three elements that you mentioned; correct?

A. You could put straight nitrogen on it if you wanted to.

Q. Or any mixture, any combination of the three --

A. That's correct.

Q. -- for agronomic purposes?

A. That's correct.

Q. Is there any reason the poultry

that true?

MS. BARTLEY: Object to form.

A. And as you see there, I wasn't specific about a watershed. I was -- that is a general statement that I could make in the state of Iowa if that base-phosphate level were legislated to a certain point.

Q. Now you said earlier that the -- what was commonly grown in the watershed that we're concerned with here today, northwest Arkansas and Oklahoma, was pasture lands rather than row crops and things?

A. That's correct.

Q. And the agronomic needs of phosphorus for pastureland is approximately what?

A. It is going to depend on the soil type, but I can tell you substantially less.

Q. A range?

A. I would say that it would require -- and I don't know as I would say.

Q. It's certainly under 300?

A. Oh, absolutely, absolutely.

Q. And could be down in the 50 to 70 range?

A. Uh-huh, what it needed to sustain

growth.

Q. And then under opportunities it looks like essentially, again, you are talking about all these different techniques of alternate source utilization of the litter, are you not?

A. Uh-huh.

Q. Cattle feed, bedding purpose, pelletizing, fuel supply and so forth and so on?

A. Right.

Q. So you were beating that drum pretty hard it looks like?

MS. BARTLEY: Object to form.

A. I believe then and still believe that alternate use is still the best solution.

(Exhibit Number 17 was marked for identification by the reporter.)

Q. Let me now show you Exhibit 17. Would this be something that you would have also prepared and kept in your computer possibly?

A. Uh-huh, possibly.

Q. Is this your writing at the bottom of that first page?

A. Yes.

Q. Can you tell me what that refers to? Somebody's name and phone number obviously.

the ground and existing phosphate levels. I don't know as he was trying to replace them. Maybe he was, but that certainly wasn't my understanding.

Q. I guess in learning about these issues you developed some understanding of the historical practices of the companies and the growers and things like that, did you not?

A. To some extent.

Q. Even before you were there. So to your knowledge how long have growers in this area of northeast Oklahoma, northwest Arkansas been land applying chicken litter?

A. I can only speculate for as long as they've been growing chickens.

Q. So it could be for decades?

A. Absolutely.

Q. And this business of growing chickens in houses, when did that start to become prevalent?

A. I couldn't tell you.

Q. Again, a long time ago?

A. I would assume so.

Q. When did the -- if you gained any knowledge of this, when did any of the

integrator industry start gaining awareness of the -- of there being a problem with excess phosphorus in watersheds?

MS. BARTLEY: Object to the form.

A. It would seem to me that it became something on their radar screen, so to speak, at about the time I went to work for Peterson Farms.

Q. That is what you observed with respect to Peterson anyway?

A. Yes.

Q. Did you do any research to see if in other parts of the country they had had reason to have knowledge or concerns before that?

A. I talked to people on the Delmarva Peninsula, talked to them; and they had a little different set of circumstances because they are extremely concentrated, have very different soil types than what we have here. But I visited with them, visited with some individuals in eastern Texas as it related to some problems that they were having in different watersheds down there. And there were some folks in I believe it was Alabama that I talked to about how long they had been doing the various things

they had been doing.

And most of them had not been doing land application as long as they had in northwest Arkansas and northeast Oklahoma.

Q. And when did you learn that the problems manifested themselves let's start with Delmarva, approximately when?

A. I think their problems started to really be recognizable two or three years before we recognized a problem in northwest Arkansas.

Q. So you are saying mid-'90s or even before then?

A. I think mid-'90s.

Q. Mid-'90s?

A. Yeah.

Q. What about with respect to the Texas issue?

A. I think Texas didn't come about until maybe a little bit after or about the same time that we did.

Q. How about Alabama?

A. I think Alabama it manifested itself because they heard everyone else was having a problem with it.